
A BILL FOR AN ACT

RELATING TO SCHOOL IMPACT FEES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that, pursuant to Act
2 246, Session Laws of Hawaii 2005, the school impact fee working
3 group was tasked with analyzing salient issues, including "fair
4 share" practices and enrollment projections by the department of
5 education, alternative funding mechanisms and best practices
6 utilized by other jurisdictions nationwide, and different
7 infrastructure needs imposed by different types of development,
8 including infill. The working group was also asked to submit
9 proposed legislation or procedures for implementing its
10 recommendations on determining school impact fees within
11 identified school impact districts.

12 In its report to the legislature entitled Hawaii School
13 Impact Fee Study (December 2006), the working group recommended
14 that each school impact district determine the appropriate
15 student generation rates for the area.

16 The purpose of this Act is to implement the working group's
17 recommendation for implementing a new method for financing new



1 or expanding existing department of education educational
2 facilities.

3 SECTION 2. Chapter 302A, Hawaii Revised Statutes, is
4 amended by adding a new part to be appropriately designated and
5 to read as follows:

6 "PART . SCHOOL IMPACT FEES

7 §302A-A Findings. New residential subdivisions within
8 identified school impact districts create additional demand for
9 public school facilities and a need for more land on which to
10 construct school facilities. New residential subdivisions
11 should provide land or pay fees in lieu of land dedication
12 proportionate to their impacts. New residential developments
13 should pay upon issuance of building permits a school impact fee
14 that is proportionate to their impact on the need to construct
15 additional facilities. A study commissioned by the State has
16 identified the land dedication requirement that is consistent
17 with proportionate fair-share principles and the net capital
18 cost of school facilities, excluding land costs, that is
19 consistent with proportionate fair-share principles.

20 The State determines that new residential subdivisions
21 within designated school impact districts shall provide land for
22 schools or pay a fee in lieu of land proportionate to their



1 impacts. The State also determines that new residential
2 developments within designated school impact districts shall pay
3 school impact fees proportionate to their impacts. This part
4 shall require developers to provide the land for new schools and
5 per cent of the cost of building new classrooms needed to serve
6 new residential developments.

7 **§302A-B Definitions.** As used in this part, the following
8 terms shall have the following meanings unless the context
9 indicates otherwise:

10 "County" means the city and county of Honolulu, the county
11 of Hawaii, the county of Kauai, and the county of Maui.

12 "Developer" means a person, corporation, organization,
13 partnership, association, or other legal entity constructing,
14 erecting, enlarging, altering, or engaging in any development
15 activity.

16 "Dwelling unit" means a room or rooms connected together,
17 constituting an independent housekeeping unit for a family
18 containing a single kitchen.

19 "Fee in lieu" means a fee determined pursuant to section
20 302-F.

21 "Greenfield school impact district" means a largely
22 undeveloped, formerly agricultural area where anticipated growth



1 will create the need for new schools that will be located within
2 the area and will primarily serve new housing units within the
3 area.

4 "Multi-family" means any dwelling unit other than a
5 single-family unit.

6 "Owner" means the owner of record of real property or the
7 owner's agent.

8 "Plat" means the map or drawing on which the subdivider's
9 plan of subdivision is presented and that the subdivider submits
10 for approval.

11 "School facilities" means the facilities owned or operated
12 by the department, or the facilities included in the department
13 of education capital budget or capital facilities plan.

14 "School impact district" means a geographic area designated
15 by the board as either a greenfield school impact district or a
16 non-greenfield school impact district.

17 "Single-family" means a detached dwelling unit not
18 connected to any other dwelling unit, or a detached building
19 containing two dwelling units.

20 **§302A-C Applicability and exemptions.** (a) Except as
21 provided in subsection (c), any person who seeks to develop
22 residential land by applying to a county for the issuance of a



1 subdivision approval within a designated school impact district
2 shall be required to agree before final subdivision approval to
3 dedicate land suitable for school facilities or pay a fee in
4 lieu of dedicating that land to the department.

5 (b) Except as provided in subsection (c), any person who
6 seeks to develop residential land within a designated school
7 impact district by applying to any county for a building permit
8 shall be required to pay a school impact fee to the department
9 before issuance of the building permit.

10 (c) The following shall be exempt from this section:

11 (1) Any form of housing permanently dedicated exclusively
12 for senior citizens, defined as fifty-five years of
13 age or over, with the necessary covenants or
14 declarations of restrictions recorded on the property;

15 (2) All nonresidential developments; and

16 (3) Any development with an executed developer agreement
17 with the department for the contribution of school
18 sites or payment of fees for school land or school
19 construction.

20 §302A-D Designation of school impact districts and

21 greenfield school impact districts. (a) The board shall
22 designate a school impact district for school impact fees only



1 after holding a public hearing. A written analysis prepared by
2 the department supporting the designation of the school impact
3 district, as required herein, shall be made available to the
4 public at least thirty days prior to the public hearing. Notice
5 of the public hearing shall be made as provided in section
6 1-28.5. The notice shall include a map of the proposed school
7 impact district and the date, time, and place of the public
8 hearing.

9 (b) Prior to the designation of a greenfield school impact
10 district, the department shall prepare a written analysis that
11 contains the following:

- 12 (1) A map and legend describing the boundaries of the
13 area;
- 14 (2) A finding that existing residential development in the
15 area is insignificant, and in no event greater than
16 one per cent of the anticipated number of dwelling
17 units at build-out of the area;
- 18 (3) Analysis to support the need for the construction of
19 one or more schools in the area, based on anticipated
20 development in the area;
- 21 (4) Analysis to identify the percentages of existing
22 student stations at the elementary school, middle



1 school, and high school levels that are located in
2 permanent structures, as opposed to portable
3 buildings, in surrounding high school complexes;

4 (5) Analysis to support appropriate student generation
5 rates by housing type and grade level that are
6 representative of the type of development anticipated
7 in the area; and

8 (6) Analysis to determine the average value per acre of
9 improved land in the area zoned for residential
10 development and suitable for school construction,
11 after typical subdivision improvements such as roads,
12 drainage, and utilities.

13 (c) Prior to the designation of a non-greenfield school
14 impact district, the department shall prepare a written analysis
15 that contains the following:

16 (1) A map and legal description of the boundaries of the
17 area, which will include one or more high school
18 complexes;

19 (2) Analysis to support the need to construct or expand
20 school facilities in the area within the next twenty-
21 five years to accommodate projected growth in the
22 area;



- 1 (3) Analysis to determine appropriate student generation
2 rates by housing type and grade level that are
3 representative of the type of development anticipated
4 in the area. If the analysis determines that student
5 generation rates are falling for existing housing
6 units in the area, the student generation rates for
7 new housing should reflect the net effect of growth,
8 after accounting for capacity likely to be freed up by
9 declining enrollment from existing housing;
- 10 (4) Analysis to identify the percentages of existing
11 student stations at the elementary school, middle
12 school, and high school levels that are located in
13 permanent structures, as opposed to portable
14 buildings;
- 15 (5) Calculation of the current level of service in the
16 area, which shall be the ratio of current student
17 capacity at all grade levels to the current enrollment
18 at all grade levels; provided that the ratio shall not
19 exceed one; and
- 20 (6) Analysis to determine the average value per acre of
21 improved land in the area zoned for residential use
22 and suitable for school construction, after typical



1 subdivision improvements such as roads, drainage, and
2 utilities.

3 §302A-E School land or fee in lieu required. The
4 procedure for determining whether the dedication of land is
5 required or a payment of a fee in lieu is required for a new
6 school facility shall be as follows:

7 (1) At the time of filing an application for any
8 residential subdivision containing fifty or more acres
9 of land, the owner or developer of the property, as a
10 part of the filing, if requested by the department,
11 shall designate the area proposed to be dedicated for
12 one or more schools on the plat submitted;

13 (2) When land is proposed to be dedicated for the purpose
14 of providing a school site, it shall be land that is
15 usable by the department for that purpose. The
16 department shall have the final determination as to
17 whether a particular piece of land is usable;

18 (3) Within sixty days of the completion of an application
19 for a residential subdivision containing fifty or more
20 acres, the department shall determine whether to
21 require dedication of land, the payment of a fee in
22 lieu thereof, or a combination of both. Only payment



- 1 of a fee in-lieu shall be required in subdivisions
2 containing less than fifty acres;
- 3 (4) When dedication is required, the land shall be
4 conveyed to the State upon completion of the
5 subdivision improvements and any offsite
6 infrastructure necessary to serve the land;
- 7 (5) When the payment of a fee in lieu is required, the fee
8 in lieu shall be paid upon final subdivision approval;
- 9 (6) Whether the department determines to require land
10 dedication or the payment of a fee in lieu, or a
11 combination of both, shall be guided by the following
12 criteria:
- 13 (A) The topography, geology, access, and location of
14 the land in the development available for
15 dedication;
- 16 (B) The size and shape of the development and the
17 land available for dedication; and
- 18 (C) The location of existing or proposed schooling
19 facilities; and
- 20 (7) The determination of the department as to whether land
21 shall be dedicated or whether a fee in lieu shall be



1 paid, or a combination of both, shall be final and
2 exclusive.

3 §302A-F Determination of the amount of land or the fee in
4 lieu. (a) The size of the tract of land to be dedicated by the
5 developer shall be determined using the following formula:

6 (Elementary school student generation rate per unit x
7 0.1056 acres/student + x middle school student
8 generation rate per unit x 0.0110 acres/student + high
9 school student generation rate per unit x 0.0306
10 acres/student) x the number of dwelling units provided
11 for on the subdivision plat.

12 (b) The dollar amount of the fee in lieu shall be
13 determined using the following formula:

14 Acres of land calculated according to subsection (a)
15 times the average value per acre of land of the
16 subdivision determined pursuant to subsection (c).

17 (c) In determining the average value per acre, the
18 following shall apply:

19 (1) The fee in lieu of land dedication for residential
20 subdivisions of fifty acres or more shall be based on
21 the value of the improved land, as if contained in a
22 single parcel, zoned for residential use, suitable for



1 school construction, and serviced by roads, utilities,
2 and drainage. A M.A.I. appraiser who is selected and
3 paid for by the developer shall determine the value of
4 the land. If the department does not agree with the
5 developer's appraisal, the department may engage
6 another M.A.I. appraiser at its own expense, and the
7 value shall be an amount equal to the average of the
8 two appraisals. If either party does not accept the
9 average of the two appraisals, a third appraisal shall
10 be obtained, with the cost of the third appraisal
11 being shared equally by the department and the
12 developer. The first two appraisers shall select the
13 third appraiser, and the third appraisal shall be
14 binding on both parties; and

- 15 (2) Residential subdivisions of less than fifty acres
16 shall pay a standard fee in lieu based on an average
17 land value determined for the area pursuant to section
18 302A-D(b)(6) and subsection (b). At least every three
19 years, the department shall prepare an analysis to
20 update the appropriate average land value and shall
21 submit the analysis to the board with a recommendation
22 to update the average value per acre.



1 (d) If the department desires a parcel larger than the
 2 size the developer is required to dedicate, the department shall
 3 pay the developer, upon conveyance of the parcel, a per-acre
 4 amount for the excess acreage at the per acre value determined
 5 in subsection (c).

6 §302A-G Impact fee calculation. (a) The State shall be
 7 divided into the following twenty-six geographically limited
 8 cost districts:

9	Cost District	School District	Cost Factor
10	Honolulu	Honolulu	1.00
11	Ewa	Leeward/Central	1.00
12	Wahiawa	Central	1.05
13	Waialua	Central	1.10
14	Koolaupoko	Windward	1.00
15	Koolauloa	Windward	1.10
16	Waianae	Leeward	1.10
17	Hilo	Hawaii	1.15
18	Puna	Hawaii	1.20
19	Kona	Hawaii	1.20
20	Hamakua	Hawaii	1.20
21	South Kohala	Hawaii	1.20
22	North Kohala	Hawaii	1.25



1	Pohakuloa	Hawaii	1.25
2	Kau	Hawaii	1.30
3	Wailuku	Maui	1.15
4	Makawao	Maui	1.25
5	Lahaina	Maui	1.30
6	Hana	Maui	1.35
7	Molokai	Molokai	1.30
8	Lanai	Lanai	1.35
9	Lihue	Kauai	1.15
10	Koloa	Kauai	1.20
11	Kawaihau	Kauai	1.20
12	Waimea	Kauai	1.25
13	Hanalei	Kauai	1.25

14 (b) School impact fees shall be based on the following
15 costs per student of new classroom construction in the Honolulu
16 assessment district. The cost per student in other assessment
17 districts shall be the cost per student in the Honolulu
18 assessment district multiplied by the appropriate cost factor in
19 subsection (a). At least every three years, the department
20 shall update the costs per student of new classroom
21 construction, assuming twenty-five students per classroom in an
22 eight-classroom building with appurtenant restrooms, in the



1 Honolulu assessment district and present the written analysis to
2 the board for review. Upon approval by the board, the updated
3 cost per student shall replace the costs applicable to classroom
4 buildings build in 2006.

5 (c) The costs per dwelling unit for single family detached
6 and multi-family housing in each designated school impact
7 district shall be calculated according to the following formula,
8 where the costs per student are determined in subsection (b) and
9 the student generation rates, percentages of student stations in
10 permanent buildings, and current level of service are determined
11 in subsection (b). In greenfield school impact areas, the
12 current level service shall be calculated as follows:

13 (Elementary school student generation rate per unit
14 times elementary school costs per student times the
15 percentage of existing elementary school student
16 stations in permanent buildings
17 +
18 Middle school student generation rate per unit times
19 middle school costs per student times the percentage
20 of existing middle school student stations in
21 permanent buildings
22 +



1 High school student generation rate per unit times
 2 high school costs per student times the percentage of
 3 existing high school student stations in permanent
 4 buildings)

5 x

6 The current level of service.

7 (d) The following revenue credit shall be utilized on the
 8 effective date of this Act. At least every three years, and
 9 concurrent with any update of the costs per student, the
 10 department shall update the revenue credits and present the
 11 written analysis to the board for review. The calculation of
 12 revenue credits shall be made in the manner used to determine
 13 revenue credits in the Hawaii school impact fee study. Upon
 14 approval by the board, the updated revenue credits shall replace
 15 the following:

16 (1) Single family detached dwelling unit: \$2,786; and

17 (2) Multi-family dwelling unit: \$1,428.

18 (e) The impact fees per dwelling unit shall be per
 19 cent of the amounts calculated according to the following
 20 formula:

21 Cost per dwelling unit from subsection (c) minus

22 revenue credit per dwelling unit from subsection (d).



1 §302A-H Accounting and expenditure requirements. (a)
2 Each designated school impact district shall be a separate
3 benefit district. Fees in lieu of school land dedication
4 collected within each school impact district shall be spent only
5 for the acquisition of school sites within the same school
6 impact district. School impact fees collected within each
7 school impact district shall be spent only for the expansion of
8 existing school or construction or new schools located within
9 the same school impact district.

10 (b) Land dedicated by the developer shall be used only as
11 a site for the construction of a new school or for the expansion
12 of existing school facilities. If the land is sold, the
13 proceeds shall be used to acquire land for school facilities in
14 the same school impact district.

15 (c) Fee in lieu funds shall only be used for the
16 acquisition of land for school purposes. Funds may be used for
17 expenses related to acquiring a piece of land, including but not
18 limited to surveying, appraisals, and legal fees. Fee in lieu
19 funds shall not be used for the maintenance or operation of
20 existing schools in the district, construction costs, including
21 architectural, permitting, or financing costs, or administrative
22 expenses.



1 (d) Impact fees shall be used only for the costs of school
2 construction that expands the student capacity of existing
3 schools or adds student capacity in new schools. School impact
4 fees may not be used to replace an existing school located
5 within the same school impact district, either on the same site
6 or on a different site. In the event of closure, demolition, or
7 conversion of an existing permanent department facility within a
8 school impact district that has the effect of reducing student
9 capacity, an amount of new student capacity in permanent
10 buildings equivalent to the lost capacity shall be funded with
11 non-school impact fee revenue. Eligible construction costs
12 include but are not limited to planning, engineering,
13 architectural, permitting, financing, and administrative
14 expenses, and any other capital equipment expenses pertaining to
15 educational facilities. Impact fee funds shall not be expended
16 for:

- 17 (1) Any costs related to the acquisition of land;
18 (2) The maintenance or operation of existing schools in
19 the district; or
20 (3) On portable buildings.

21 (e) Impact fee and fees in lieu shall be expended or
22 encumbered within twenty years of the date of collection. Fees



1 shall be considered spent or encumbered on a first-in, first-out
2 basis.

3 **§302A-I Refunds.** If the fee in lieu or impact fee is not
4 expended within twenty years of the date of collection, the
5 department shall refund to the developer, or the developer's
6 successor in the title, the amount of fees in lieu paid and any
7 interest accrued thereon. Application for a refund shall be
8 submitted to the department within one year of the date on which
9 the right to claim arises. Any unclaimed refund shall be
10 retained and expended as provided in this part.

11 **§302A-J Credits for land dedication or fees in lieu.** (a)
12 Any person subject to the land dedication or fee in lieu
13 requirements pursuant to this part may apply for credit for any
14 similar dedication or payment accepted and received by the
15 department for the same subdivision subject to this section.

16 (b) Any credit provided for under this section shall be
17 based on the current value, determined in the manner provided
18 under section 302A-F, of the dedication or the amount of the
19 payment, escalated to the present using the Engineering News-
20 Record Construction Cost Index or an equivalent index if that
21 index is discontinued.



1 (c) Credits for contributions prior to the effective date
2 of this Act shall be based on the present value; provided that
3 the credit amount shall not exceed the value of the dedication
4 or fee in lieu required under this part.

5 §302A-K Credits for impact fees. (a) Any applicant
6 subject to the school impact fee requirements pursuant to this
7 part may apply for credit for any similar contribution, payment,
8 or construction of public school facilities accepted and
9 received by the department for the same subdivision subject to
10 this part. No credit shall be authorized against the impact
11 fees for dedication of land or payment of a fee in lieu of land
12 dedication.

13 (b) Credits for contributions, payments, or construction
14 made prior to the effective date of this Act shall be provided
15 if the subdivision for which the contribution, payment, or
16 construction was made has not been completed. The current owner
17 of the property for which the contribution, payment, or
18 construction was made as a condition of development approval
19 shall file an application for credit within one year of the
20 effective date of this Act. If the application is not made
21 within one year of the effective date of this Act, no credit
22 shall be provided. The application for credit shall be



1 submitted and reviewed as provided in this part. The amount of
2 the credit for a contribution, payment, or construction made
3 prior to the effective date of this Act shall be the current
4 value of the contribution, payment, or construction, less the
5 total amount of school impact fees that would have been owed for
6 the building permits already issued for the project had those
7 permits been subject to the fees specified in section 302A-G.
8 The current value shall be determined using the Engineering
9 News-Record Construction Cost Index, or an equivalent index if
10 that index is discontinued. Credits for payments or
11 contributions prior to the effective date of this Act shall not
12 exceed the value of the impact fee required under this section.

13 (c) A credit may be applied only against school impact
14 fees that would otherwise be due for building permits issued
15 within the subdivision for which the payment or contribution was
16 required as a condition of development approval. The department
17 shall maintain an accounting of the amount of the credit
18 applicable to the subdivision and shall reduce the amount of the
19 credit by the amount of the school impact fees that would
20 otherwise be due for each building permit issued in the
21 subdivision. After the credit balance is exhausted, no



1 additional credits shall be applied to subsequent building
2 permits issued within the subdivision.

3 (d) If private construction of school facilities is
4 proposed by a developer after the effective date of this Act,
5 the proposed construction is acceptable to the department, and
6 the value of the proposed construction exceeds the total impact
7 fees that would be due from the development, the department
8 shall execute with the developer an agreement to provide
9 reimbursement for the excess credit from the impact fees
10 collected from other developers within the same benefit
11 district."

12 SECTION 3. In codifying the new sections added by
13 section 2 of this Act, the revisor of statutes shall substitute
14 appropriate section numbers for the letters used in designating
15 the new sections in this Act.

16 SECTION 4. This Act shall take effect upon its approval.



Report Title:

School Impact Fees; New Schools or Facilities

Description:

Establishes a new part for determining school impact fees for financing new or expanding existing department of education schools or facilities by requiring each school impact district to determine the appropriate student generation rates for the area. (SD1)

